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New Pharmacy Law.

THE FOLLOWING IS A CERTIFIED COPY OF HOUSE BILL
NO. 126.

AN ACT TO REGULATE THE PRACTICE OF PHARMACY IN THE STATE OF
SOUTH DAKOTA, AND TO ESTABLISH THE SOUTH DAKOTA
STATE PHARMACEUTICAL ASSOCIATION.

1. Forbids compounding or sale of drugs, medicines or poisons, except by registered pharmacists.
2. Provides who may register.
3. Provides who may become licentiates.
4. Board of Pharmacy, manner of appointment—Registered Pharmacists constitute the State Association, nominate candidates for appointment and name the time and place of Board meetings.
5. Organization of Board and duties of Board and officers.
6. Requires annual report to the Governor and association.
7. Who may become Registered Assistant Pharmacists and prescribes their privileges.
8. Fees for certificates.
9. Annual fees.
10. Compensation of Board and officers and appropriation of funds.
11. Penalties for violation of this act.
12. Provides penalties for adulteration of drugs and pharmaceutical preparations.
13. Certain poisons to be registered and labeled with label containing antidote.
14. Penalties against Board and officers for willful neglect of duty.
15. Prosecution of suits, duty of state attorneys, disposition of penalties collected.
16. All other pharmacy acts repealed.
17. In force.

No. 126

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA :

SECTION 1. That it shall hereafter be unlawful for any person, other than a registered pharmacist to retail, compound or dispense drugs, medicines or poisons, or to open or conduct any pharmacy or store for retailing, compounding or dispensing drugs, medicines or poisons, unless such person shall be a registered pharmacist within the meaning of this act, except as herein provided.

SEC. 2. Any person of good moral character and temperate habits shall be entitled to be registered as a pharmacist within the meaning of this act who shall be a licentiate in pharmacy, or who shall be a graduate in pharmacy from a reputable college of pharmacy, whose course of study and requirements are approved by the board of pharmaceutical examiners hereinafter provided for, or who shall hold a certificate of registration from the South Dakota Board of Pharmacy at the time this act takes effect or who was engaged in the practice of pharmacy in the Territory of Dakota prior to the organization of the present Board of Pharmacy. Provided, that they are now, and have been continuously engaged in said practice.

SEC. 3. Licentiates in pharmacy shall be such persons not less than eighteen years of age who have had three years experience in compounding drugs in drug stores wherein the prescriptions of medical practitioners are compounded, and have passed a satisfactory examination before the state Board of Pharmacy herein mentioned. The said board may in their discretion, grant certificates of registration to such persons as shall furnish with their application satisfactory proof that they have been registered by examination in some other state, provided, that such other state shall require a degree of competency equal to that required of applicants in this state.

SEC. 4. The registered pharmacists herein provided are hereby constituted an association under the name and title of the "South Dakota State Pharmaceutical Association," the purposes of which shall be to improve the science and art of pharmacy, and to restrict the sale of medicines to regularly educated and qualified persons as provided in this act. The South Dakota State Pharmaceutical Association shall report annually, directly to the Governor, recommending the first year, the names of at least nine persons whom said association shall deem best qualified to serve as members of the Board of Pharmacy; and the names of at least three members each year thereafter. Provided, That said Association shall, at its first annual meeting after this act takes effect, which shall be held at Watertown, South Dakota, August 20th, 1890,

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divide the state into three pharmaceutical districts, and the nominees shall be three from each district the first year, and three from the district in which the annual vacancy occurs each year thereafter. The Governor shall appoint, on or before the first day of October, 1890, from among the members recommended by said association one person from each pharmaceutical district herein provided, and the persons so appointed shall constitute the State Board of Pharmaceutical Examiners for South Dakota, and shall hold office for the term of three years, or until their successors are appointed and qualified. Provided, That each member of said board shall be a practicing pharmacist, doing a retail drug business in South Dakota, and provided further, That the term of office of the three first appointed shall be so arranged that one shall expire on the thirtieth day of September of each year, and the vacancy so created, as well as all other vacancies shall be filled by the Governor from the nominees last submitted residing in the district where such vacancy occurs.

SEC. 5. The said board shall within thirty days after its appointment meet and organize by electing one of their members president. The secretary and treasurer of the South Dakota State Pharmaceutical Association shall each respectively be secretary and treasurer of the board, and they shall each give such bonds as the association may require. The secretary shall pay over to the treasurer all moneys that shall come into his hands as such secretary, and the treasurer shall disburse the same only on the order of the president of the association, countersigned by the secretary. It shall be the duty of the board to examine all applications for registration submitted in due form as provided in the rules and regulations of the board; to grant certificates of registration to such persons as may be entitled to the same under the provisions of this act; to cause the prosecution of all persons violating its provisions, provided that complaint under oath has been filed with the secretary of the board. It shall be the duty of the secretary to notify the member of the board in whose district the alleged violation shall have occurred, whose duty shall be to cause the prosecution of the offender in the name of the State of South Dakota. Provided further: That if, upon investigation, in the judgment of said member, the charges preferred cannot be sustained, he shall report the case to the other members of the board, and if a majority of the board shall then agree that prosecution is not warranted the case may be dropped; otherwise the said member shall cause the prosecution to be made as aforesaid.

SEC. 6. The board shall hold meetings for the examination of applicants for registration, and the transaction of such other business as shall pertain to its duties at such times and places as the South Dakota State Pharmaceutical Association may direct. Provided: That special meetings of the board may be held whenever it shall be deemed necessary by a majority of the members thereof. It shall be the duty of the board to report annually to the Governor and to the South Dakota State Pharmaceutical Association upon the condition of pharmacy in this state, which said report shall also furnish a record of the proceedings of the said board for the year, and also the names of all the pharmacists duly registered under this act. Said board shall have power to make by laws and regulations for the proper fulfillment of its duties under this act, and shall keep a book of registration in which shall be entered the names and places of business of all persons registered under this act, which book shall also specify such facts as such persons shall claim to justify their registration. Two members of said board shall constitute a quorum.

SEC. 7. Any person shall be entitled to registration as assistant pharmacist who is of the age of eighteen years, of good moral character, temperate habits, and has had two years service under a registered pharmacist, and shall pass an examination before the State Board of Pharmacy that shall show competency, or qualification equal to such service, or who shall hold a certificate of registration as such assistant from the South Dakota Board of Pharmacy at the time this act takes effect. Any registered assistant pharmacist shall have the right to compound medicines or sell poisons under the direct supervision of a registered pharmacist, and he may take charge of a drug store or pharmacy during the temporary absence of the owner or manager thereof. Provided, That nothing herein shall be construed as giving such assistant authority to continuously perform any of the duties herein mentioned except under the supervision and in the presence of the manager.

SEC. 8. Every person applying for registration as a registered pharmacist shall, before a certificate is granted, pay to the secretary of the Board the sum of Two Dollars, and a like sum shall be paid by applicants for registration as assistant pharmacists; and every applicant for registration by examination shall pay to the secretary the sum of Two Dollars with his application, and before receiving his certificate of registration an additional sum of Three Dollars.

SEC. 9. Every registered pharmacist who desires to continue the practice of his profession shall annually thereafter, during the time he



shall continue in such practice, on such date as the South Dakota State Pharmaceutical Association may determine, pay to the secretary of the Board an annual registry fee to be fixed by the Association, but which in no case shall exceed the sum of \$5, for which he shall receive a renewal of said registration. The failure of any registered pharmacist to pay said fee shall not deprive him of the right to renewal upon payment thereof, nor shall his retirement from the profession deprive him of the right to renew his registration should he wish to resume the practice. Registered assistants who desire to renew their registration shall pay for such renewal fifty cents per annum. Every certificate of registration granted under this act shall be conspicuously exposed in the pharmacy to which it applies.

SEC. 10. The Secretary of the Board shall receive a salary which shall be fixed by the Association, and which shall not exceed the sum of five hundred dollars per year. He shall also receive his travelling and other necessary expenses incurred in the performance of his official duties. The members of the Board shall receive the sum of five dollars for each day actually engaged in its service, and all legitimate and necessary expenses incurred in attending the meetings of said Board. Said expenses shall be paid from the fees and penalties received by the Association under the provisions of this act; and no part of the salary, or other expenses of the board shall be paid out of the state treasury. All moneys received in excess of said per diem allowance, and other expenses above provided for, shall be held by the treasurer of the association as a special fund for paying the cost of publishing an annual report of the proceedings of the board and association, and other necessary expenses.

SEC. 11. Any person not being a registered pharmacist within the meaning of this act, who shall, thirty days after this act takes effect, keep a pharmacy or store for retailing or compounding medicines, or who shall take, use or exhibit the title of a registered pharmacist, shall be deemed guilty of a misdemeanor, and for each and every offense be liable to a penalty of fifty dollars, upon conviction thereof. Any registered pharmacist who shall permit the compounding or dispensing of prescriptions or the vending of drugs or poisons in his store or place of business except under the supervision of a registered pharmacist, or except by a registered assistant pharmacist, as herein provided, or any pharmacist or assistant who, while continuing in business, shall fail or neglect to procure his annual registration, or any person who shall willfully make any false representations to procure registration for himself

or any other person, shall be deemed guilty of a misdemeanor and liable to penalty of fifty dollars, upon conviction thereof, provided that nothing in this act shall apply to, nor in any manner interfere, with the business of any physician or prevent him from supplying to his patients such articles as may seem to him proper. And provided further, That no part of this section shall be construed as to give the right to any physician to furnish any intoxicating liquors to be used as a beverage, on prescription or otherwise.

SEC. 12. No person shall add to or remove from any drug, medicine, chemical or pharmaceutical preparation any ingredient or material for the purpose of adulteration or substitution, which will alter the nature or composition of such drugs or other preparation. Any person who shall thus willfully adulterate or alter, or shall sell or offer for sale any such adulterated or altered preparation, or cause to be substituted one material for another with the intention to defraud or deceive the purchaser, shall be deemed guilty of a misdemeanor, and be liable to prosecution under this act. If convicted he shall be liable to all the costs of the action, and all the expenses of the board of pharmacy in connection therewith, and for each and every offense shall be liable to a fine of fifty dollars.

SEC. 13. Every person who shall sell arsenic, carbolic acid, nitric acid, sulphuric acid, beladonna, aconite, opium, and their preparations, [except paregoric and Dover's powder] strychnine, corrosive sublimate prussic acid, cyanide of potassium, paris green or other poisons liable to be fatal to adult human life in doses of fifteen grains or less, shall affix to the package sold by him, a label, plainly marked with his name, place of business and the word "Poison," together with the antidote therefor, and shall enter in a book kept by him for that purpose the name of the purchaser, the name, quantity and kind of poison sold, and such book shall be kept open for public inspection, and be preserved for reference for at least two years, provided that nothing herein contained shall apply to the dispensing of physician's prescriptions specifying poisons, and all other poisons which are liable to be destructive to adult human life, in quantities of sixty grains or less, shall, before they are delivered to the purchaser, be plainly labeled with the word "Poison." Any person failing to comply with the requirements of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined ten dollars for each and every such omission.

SEC. 14. Any member of the board of pharmacy, or officer herein provided for, who shall willfully neglect any of the duties provided in

this act or who shall aid or abet any person in the evasion or violation of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be liable to a penalty of fifty dollars for each and every such offence.

SEC. 15. All suits for the recovery of the several penalties prescribed in this act shall be prosecuted in the name of the people of the State of South Dakota in any court having jurisdiction therein, and it shall be the duty of the state's attorney of the county where such offense is committed to prosecute all persons violating the provisions of this act, upon complaint being made. All penalties collected under the provisions of this act shall inure to the South Dakota State Pharmaceutical Association.

SEC. 16. All acts or parts of acts regulating the practice of pharmacy within this state enacted previous to the passage of this act, which in any manner conflict with the provisions of this act, are hereby repealed.

SEC. 17. This act shall take effect and be in force after its passage and approval as provided in Art. 3, Sec. 22, of the State Constitution.

Approved, March 8th, 1890.

A. C. MELLETTTE,

Governor.

UNITED STATES OF AMERICA,

STATE OF SOUTH DAKOTA.

} Secretary's Office.

I, A. O. Ringsrud, Secretary of State, of the State of South Dakota, do hereby certify that I have carefully compared the foregoing copy of An Act to Regulate the Practice of Pharmacy in the State of South Dakota, and to establish the South Dakota Pharmaceutical Association, with the original now on file in this office, and that the same is a correct transcript therefrom, and of the whole thereof.

In testimony whereof, I have hereunto set my hand and affixed the great seal of the state of South Dakota, at Pierre, this 1st. day of April, 1890.

A. O. RINGSRUD,

Secretary of State.

